

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1246

AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 27-2-21-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. **(a)** An insurer that uses credit information to underwrite or rate risks shall not do the following:

- (1) Use an insurance score that is calculated using income, gender, address, ZIP code, ethnic group, religion, marital status, or nationality of the consumer as a factor.
- (2) Deny, cancel, or decline to renew a personal insurance policy solely on the basis of credit information.
- (3) Base an insured's renewal rate for a personal insurance policy solely on credit information.
- (4) Take an adverse action against a consumer solely because the consumer does not have a credit card account.
- (5) Consider an absence of credit information or an inability to calculate an insurance score in underwriting or rating a personal insurance policy, unless the insurer does one (1) of the following:
 - (A) Presents to the commissioner information that the absence or inability relates to the risk for the insurer and treats the consumer as approved by the commissioner.
 - (B) Treats the consumer as if the consumer had neutral credit information, as defined by the insurer.
- (6) Take an adverse action against a consumer based on credit

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information unless the insurer obtains and uses:

- (A) a credit report issued; or
- (B) an insurance score calculated;

not more than ninety (90) days before the date the personal insurance policy is first written or the renewal is issued.

~~(7) Use credit information unless the insurer recalculates the insurance score or obtains an updated credit report at least every thirty-six (36) months. However, the following apply:~~

~~(A) At annual renewal, upon the request of an insured or the insured's agent, the insurer shall re-underwrite and re-rate the personal insurance policy based on a current credit report or insurance score unless one (1) of the following applies:~~

- ~~(i) The insurer's treatment of the consumer is otherwise approved by the commissioner;~~
- ~~(ii) The insured is in the most favorably priced tier of the insurer; within a group of affiliated insurers;~~
- ~~(iii) Credit information was not used for underwriting or rating the insured when the personal insurance policy was initially written;~~
- ~~(iv) The insurer reevaluates the insured at least every thirty-six (36) months after a personal insurance policy is issued based on underwriting or rating factors other than credit information.~~

This clause does not require an insurer to recalculate an insurance score or obtain an updated credit report of a consumer more frequently than one (1) time in a twelve (12) month period.

~~(B) An insurer may obtain current credit information upon the renewal of a personal insurance policy when renewal occurs more frequently than every thirty-six (36) months if consistent with the insurer's underwriting guidelines.~~

~~(8) (7) Use the following as a negative factor in an insurance scoring methodology or in reviewing credit information for the purpose of underwriting or rating a personal insurance policy:~~

- ~~(A) A credit inquiry:

 - (i) not initiated by the consumer; or
 - (ii) requested by the consumer for the consumer's own credit information.~~
- ~~(B) A credit inquiry relating to insurance coverage.~~
- ~~(C) A **late payment or a** collection account with a medical industry code on the consumer's credit report.~~
- ~~(D) Multiple lender inquiries:~~

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(i) coded by the consumer reporting agency on the consumer's credit report as being from the home mortgage industry; and

(ii) made within thirty (30) days of one another.

(E) Multiple lender inquiries:

(i) coded by the consumer reporting agency on the consumer's credit report as being from the automobile lending industry; and

(ii) made within thirty (30) days of one another.

(b) An insurer that uses credit information to underwrite or rate risks shall, at annual renewal upon the request of an insured or an insured's agent, re-underwrite and re-rate the insured's personal insurance policy based on a current credit report or insurance score unless one (1) of the following applies:

(1) The insurer's treatment of the consumer is otherwise approved by the commissioner.

(2) The insured is in the most favorably priced tier of the insurer, within a group of affiliated insurers.

(3) Credit information was not used for underwriting or rating the insured when the personal insurance policy was initially written.

(4) The insurer reevaluates the insured at least every thirty-six (36) months after a personal insurance policy is issued based on underwriting or rating factors other than credit information.

(5) The insurer has re-underwritten and re-rated the insured's personal insurance policy based on a credit report obtained or an insurance score recalculated less than twelve (12) months before the date of the request by the insured or the insured's agent.

(c) An insurer that uses credit information to underwrite or rate risks may obtain current credit information upon the renewal of a personal insurance policy when renewal occurs more frequently than every thirty-six (36) months if consistent with the insurer's underwriting guidelines.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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HEA 1246 — Concur+

